

CONFIDENTIAL

SISSE 1.4.5.1 V1



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

COPY

September 18, 2003

Zach Miller
Davis, Graham & Stubbs, LLP
1550 17th Street
Denver, CO 80201-0185

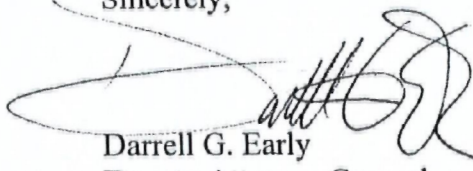
Re: CO/AOC for Nu-West Georgetown Canyon Mine

Dear Zach,

Enclosed please find a proposed draft Consent Order/Administrative Order on Consent (CO/AOC) for the Nu-West Georgetown Canyon Mine. This draft CO/AOC will replace the proposed draft Consent Order sent to your company on April 3, 2003. The reason for this revision is to reflect changes resulting from negotiations with Monsanto Corporation regarding their mine sites. The enclosed document is modeled upon the recently finalized Monsanto Consent Order.

Please contact me at your earliest convenience so that we may begin discussions concerning this CO/AOC and be prepared to move forward with site specific work in the Spring of 2004. I appreciate your cooperation in this regard and look forward to working with you to successfully resolve these matters.

Sincerely,


Darrell G. Early
Deputy Attorney General

DGE/kma

Enc.

cc: Richard Clegg w/enc.
Tiffany Floyd w/enc.
Orville Green w/o enc.
Doug Tanner w/o enc.

USEPA SF



1414457

I

Table of Contents

<u>Section</u>		<u>Section</u>	
I. Introduction	3	XVIII. Sampling and Data Availability	23
II. Jurisdiction	4	XIX. Work Stoppage	25
III. Parties Bound	4	XX. Emergency Response and Notification	25
IV. Definitions	5	XXI. Additional Investigation Analysis	26
V. Findings of Fact	8	XXII. Dispute Resolution	27
VI. Collateral Use of this CO/AOC	11	XXIII. Force Majeure	29
VII. Order	11	XXIV. Reimbursement of State Response Costs	30
VIII. On-Scene Coordinator/Project Manager	11	XXV. Reimbursement of EPA and FWS Response Costs	31
IX. Work to be Performed	14	XXVI. Stipulated Penalties	34
X. Administrative Record	19	XXVII. Other Claims	35
XI. Other Applicable Laws	20	XXVIII. Enforcement	35
XII. Record Preservation	20	XXIX. Reservation of Rights	36
XIII. Claims Against Third Parties	21	XXX. Indemnification	38
XIV. Modification of CO/AOC Plans or Schedules	21	XXXI. Notice of Completion	39
XV. Threatened/Endangered Species	21	XXXII. Modification	39
XVI. Counterparts and Effective Date	21	XXXIII. Miscellaneous	39
XVII. Access	22		
Appendix 1	MOU		
Appendix 2	SOW		
Appendix 3	AWOC		
Appendix 4	Site Map		

I. INTRODUCTION

1.1 This Consent Order ("CO")/Administrative Order on Consent ("AOC") is entered into voluntarily by the Idaho Department of Environmental Quality ("IDEQ"), the United States Environmental Protection Agency ("EPA"), the United States Department of Agriculture, United States Forest Service (USFS), and Nu-West Mining, Inc and Nu-West Industries, Inc. (collectively "Nu-West"), the latter as Respondent (collectively, the "Parties" or alone a "Party"). The mine site addressed in this CO/AOC is the Georgetown Canyon Mine Site (the "Site"), located partly on public land and/or private land that is subject to the jurisdiction, custody or control of IDEQ and EPA and USFS. A more detailed description of the Site is provided in Section IV of this CO/AOC ("Definitions").

1.2 As provided for in the July 17, 2000 Memorandum of Understanding Concerning Contamination from Phosphate Mining Operations in Southeastern Idaho ("MOU"), attached as Appendix 1, the State of Idaho Department of Environmental Quality has been designated as the "Lead Agency" for this Site and matters related to this CO/AOC. The EPA and the USFS shall participate at the Site as Support Agencies along with the United States Department of Interior's Fish and Wildlife Service ("FWS"), Bureau of Indian Affairs ("BIA"), and the Shoshone-Bannock Tribes ("Tribes").

1.3 This CO/AOC provides for the performance by Nu-West of a Site Investigation ("SI") and Engineering Evaluation/Cost Analysis ("EE/CA") for the Georgetown Canyon Mine (the Site). A more detailed description of the Site is provided in Section IV of this CO/AOC ("Definitions"). The work required for performance of SI and EE/CA is specified in the Statement of Work ("SOW") attached, and incorporated by reference, as Appendix 2 to this CO/AOC, and is governed by Section IX of this CO/AOC ("Work to be Performed"). Data relevant to the SIs may be available and will continue to be generated from work undertaken by Nu-West in anticipation of performing the work required under this CO/AOC ("Work") and generated as part of the Area-Wide Investigation contemplated by the MOU and the Area Wide Investigation CO/AOC (July 20, 2001) ("AWAOC"), attached as Appendix 3, as well as from other sources. This CO/AOC is intended to be implemented consistently with the MOU and AWAOC.

II. JURISDICTION

2.1 This CO/AOC is entered into by IDEQ pursuant to Idaho's Environmental Protection & Health Act, Idaho Code §§ 39-101 to 39-130, the Hazardous Waste Management Act of Idaho, Idaho Code §§ 39-4401 to 39-4432 and Idaho's Water Quality Act, Idaho Code § 39-3601 *et seq.*, the Rules and Standards promulgated pursuant thereto, and as a delegated Lead Agency pursuant to the MOU. This CO/AOC is entered into by EPA and the USFS under the authority vested in the President of the United States by Sections 104, 122(a), and 122(d)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9604, 9622(a), and 9622(d)(3).

2.2 Without admitting any liability, Nu-West agrees to the terms and conditions of this CO/AOC without the issuance of a Notice of Violation or the holding of a compliance conference under applicable Idaho law.

2.3 In any action to enforce the terms of this CO/AOC, the Parties agree not to contest its validity or the authority and jurisdiction of IDEQ, USFS or EPA to issue and enforce this CO/AOC, except that Nu-West reserves the right to contest the authority of EPA to enforce this CO/AOC beyond the limitations provided in Section XXVII, and the Parties agree to comply with and be bound by the terms and conditions of this CO/AOC. By signing this CO/AOC, however, Nu-West does not concede or waive its right to object to the authority of the United States or IDEQ to issue, take, or enforce any other order or action relating to this Site.

III. PARTIES BOUND

3.1 This CO/AOC shall apply to, and be binding upon IDEQ, EPA, USFS and Nu-West and its officers, employees, agents, successors and assigns. Any change in ownership or corporate status of Nu-West including, but not limited to, any transfer of assets or real or personal property shall not alter Nu-West's obligation to comply with the requirements of this CO/AOC or to ensure compliance by any successor or assign of Nu-West, regardless of whether Nu-West continues to exist following such

transaction. The signatories to the CO/AOC certify that they are authorized to execute and legally bind the Parties they represent to this CO/AOC. Nu-West shall provide a copy of this CO/AOC and all of its Appendices to the Support Agencies, as defined herein.

3.2 Nu-West shall provide a copy of this CO/AOC and all of its Appendices to each contractor, subcontractor, laboratory, and consultant retained to perform Work under the CO/AOC within fourteen (14) days after the effective date of this CO/AOC or the date of retaining their services, whichever is later, and shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this CO/AOC and its Appendices. Notwithstanding the provisions of any such contract, however, Nu-West is, and shall remain, responsible for compliance with this CO/AOC.

IV. DEFINITIONS

4.1 Unless otherwise expressly provided herein, terms used in this CO/AOC that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this CO/AOC or in the attached Appendices, the following definitions shall apply:

"CO/AOC" shall mean this Consent Order/Administrative Order on Consent and all attached Appendices. In the event of a conflict between this CO/AOC and any Appendix, this CO/AOC shall control.

"BLM" shall mean the United States Department of the Interior, Bureau of Land Management.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than Saturday, Sunday, or a Federal holiday. In computing any period of time under this CO/AOC, where the last day falls on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

"Deliverable" shall mean the documents identified in paragraph 9.6 that Nu-West must submit

pursuant to this CO/AOC, and any additional documents identified in writing by IDEQ under Section XXI of this CO/AOC. All Deliverables under this CO/AOC are subject to review, comment, and approval as described in Paragraph 9.7 of this CO/AOC.

"DOI" shall mean the United States Department of the Interior.

"Effective date of this CO/AOC" shall mean the date on which the CO/AOC has been signed by all Parties and concurred in by the United States Department of Justice.

"EPA" shall mean the United States Environmental Protection Agency.

"EPHA" shall mean the Idaho Environmental Protection & Health Act, Idaho Code §§ 39-101 to 39-130.

"FWS" shall mean the United States Department of the Interior, Fish and Wildlife Service.

"Hazardous substances" shall include those substances defined under Idaho Code § 39-7203(3) and CERCLA § 101(14), 42 U.S.C. § 9601(14) and shall also include "pollutants" as defined by Idaho Code § 39-3602(19) and IDAPA 58.01.02.003.82, "deleterious materials" as defined by IDAPA 58.01.02.003.20 and "hazardous material" as defined by IDAPA 58.01.02.003.46.

"HWMA" shall mean the Hazardous Waste Management Act of Idaho, Idaho Code §§ 39-4401 to 39-4432.

"Idaho's Water Quality Act" shall mean Idaho Code §§ 39-3601 *et seq.*

"IDEQ" shall mean the State of Idaho Department of Environmental Quality.

"Lead Agency" shall mean the State of Idaho through IDEQ.

"MOU" shall mean the July 2000 "Memorandum of Understanding Concerning Contamination from Phosphate Mining Operations in Southeastern Idaho" between several federal agencies (Forest Service, EPA, BLM, BIA and FWS), IDEQ and the Shoshone-Bannock Tribes.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and codified at 40 C.F.R. Part 300, and amendments thereto.

"Natural Resource Damages" or "NRD" shall mean damages for harm to federal, state or tribal natural resources which the United States, the State and/or the Tribes has the authority to seek pursuant to common law, state statutory law, or federal statutory law, including CERCLA and the Clean Water Act, 33 U.S.C. § 1251 et seq.

"Site" shall mean the Georgetown Canyon Mine approximately approximately 5 miles east of Georgetown, Idaho, including the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for response action implementation. The Site occurs primarily on State and Private lands although the Site is partially located on National Forest System land on the Caribou/Targhee National Forest pursuant to special use permit. The Site is further described on the maps attached to this AOC as Appendix 4, which is incorporated by reference into this AOC.

"State" shall mean the State of Idaho, including its departments, agencies and instrumentalities.

"Statement of Work" or "SOW" shall mean the documents that outline the Work to be performed by Nu-West to implement these site investigations and to satisfy the requirements of this CO/AOC, as set forth in Appendix 1 of this CO/AOC, and any modifications made thereto in accordance with Section XXI of this CO/AOC.

"Support Agency" means an agency that provides a support agency coordinator or project manager to furnish necessary data to IDEQ, review response data and documents, and/or provide other assistance as requested by the On-Scene Coordinator. The BLM has declined Support Agency status for the Site. All other federal agencies (USFS, EPA, FWS, BIA) and the Tribes have retained Support Agency status for the Site.

"Tribes" shall mean the Shoshone-Bannock Indian Tribes residing on the Fort Hall reservation near Pocatello, Idaho.

"United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

"USDA" shall mean the United States Department of Agriculture.

"Work" shall mean all tasks that Nu-West is required to perform pursuant to this CO/AOC, and its attached Appendices, and all Deliverables produced pursuant to this CO/AOC.

V. FINDINGS OF FACT

5.1 The Site is located in Caribou County, Idaho primarily on State and private lands, although certain mine related actions occur partially on National Forest System land. The IDEQ exercises jurisdictional control over environmental issues in the State of Idaho and on State- and privately-owned lands; the Forest Service exercises jurisdiction, custody and control over National Forest System lands on behalf of the United States exercises jurisdiction, custody and control over Federally-owned public lands.

5.2 The Georgetown Canyon Mine is located in Township 10 South, Range 45 East (Sections 5, 8, 12, 17-20 and 30); Township 10 South, Range 44 East (Sections 24, 25 and 36); and Township 11 South, Range 44 East (Sections 1, 2, 12 and 13) approximately 30 miles southeast of Soda Springs and five (5) miles east of Georgetown, Idaho. Mining activities at the site were conducted under 16 placer mining claims patented between 1912 and 1915 (Patent # 245166, 483955, 483956, 488040, 548595 and 548596). The claims were consolidated by Stockholders Syndicate and sold to Central Farmers Fertilizer Company in 1955. Central Farmers constructed a processing facility at the Site in 1959 and performed open pit surface mining and ore processing from 1959 through 1964. No phosphate ore has been produced at the Site since 1964, however, the Site has changed primary ownership a number of times. The Site was acquired by Nu-West in 1995.

5.3 The Site consists of two north-south limbs connected by property occupied by the former industrial facility. Mining occurred primarily on the east limb and focused on the upper ore bed. The site drains into Georgetown Canyon and contributes runoff to Georgetown Creek, which is designated as a Special Resource Water by the State of Idaho.

5.4 The industrial portion of the Site is subject to a separate State Consent Order for the closure of the former industrial facility. This activity addresses the historic furnace building, phosphorus

ponds, product tanks, underground storage tank releases and observed transformer oil spills discovered during demolition activities.

5.5 Historic mining activities at the Site have included the construction of waste rock and overburden piles comprised of middle waste shales high in naturally-occurring concentrations of selenium and other mining-related trace metals. Sampling results from the Area Wide Investigations performed since 1996 indicate elevated levels of associated constituents in waste rock soils, vegetation, surface water units and other various abiotic/biotic media at the Site. Potential selenium-related livestock deaths also occurred in the vicinity of Site waste rock piles in 1999.

5.6 Pursuant to the July 2000 MOU between the Federal Agencies, IDEQ and the Shoshone Bannock Tribes, the IDEQ is the lead agency for conducting response actions at the Site.

5.7 Selenium and other hazardous and deleterious substances have been detected above background concentrations in monitoring and sampling conducted at the Site by Nu-West. Subsequent sampling conducted by the Forest Service, BLM, their contractors, and the University of Idaho indicate that selenium and other hazardous substances are being leached from waste rock at the site into the environment, and may be impacting vegetation and surface water.

5.8 As stated in the AWAOC, the parties intend that Work accomplished in accordance with this site-specific CO will be closely coordinated with the Area-Wide investigation.

5.9 Subject to paragraph 6.1, and based on the Findings of Fact set forth above in paragraphs 5.1-5.5, and the Administrative Record supporting this removal action, the IDEQ, EPA, and USFS make the determinations in paragraphs 5.6.1 through 5.6.9.

5.9.1 The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

5.9.2 The contaminants found at the Site, including selenium and other hazardous substances, are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and are "hazardous and deleterious materials" subject to the provisions of IDAPA 58.01.02.800, or are otherwise "pollutants" as defined by IDAPA 58.01.02.003.78.

5.9.3 There has been actual or threatened "release," as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), of one or more hazardous substances from the facility.

5.9.4 There has been an actual discharge, as defined in IDAPA 58.01.02.003.25, of one or more pollutants or hazardous or deleterious materials from the facility to waters of the State of Idaho.

5.9.5 Nu-West is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21) and IDAPA 58.01.02.003.74.

5.9.6 Nu-West is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), as a past and/or current owner and/or operator of the Site and/or as a person who arranged for the disposal of hazardous substances at the Site.

5.9.7 Nu-West is liable to the State of Idaho under IDAPA 58.01.02.080.01.a-b. as a result of discharge to waters of the State of pollution and/or hazardous and deleterious materials.

5.9.8 The actual or threatened release of pollutants, hazardous substances and/or deleterious materials from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a) or will otherwise injure designated beneficial uses of waters of the State within the meaning of IDAPA 58.01.02.080.01.b.

5.9.9 The Work to be performed under this CO is necessary to protect public health, welfare or the environment, will be consistent with CERCLA, the NCP, EPHA, and HWMA, and will expedite effective response actions, and is in the public interest.

VI. COLLATERAL USE OF THIS CO/AOC

6.1 Except as set forth in paragraph 2.3, nothing in this CO/AOC shall constitute or be construed as an admission of liability or fact by any of the Parties. Specifically, Nu-West neither admits nor denies the findings of fact, conclusions of law, or determinations set forth in this CO/AOC, and does not admit any responsibility or liability for any releases or threatened releases of pollutants, hazardous

substances, and/or hazardous and deleterious materials from the Site. Moreover, Nu-West does not acknowledge or concede that any release or threatened release of hazardous substances at or from the Site constitutes an imminent and substantial endangerment to the public health or welfare or the environment. IDEQ, EPA, and the USFS do not admit any liability arising out of or relating to the Site or otherwise waive any provisions of the MOU relating to liability or jurisdiction.

6.2 None of the provisions of this CO/AOC shall be admissible in evidence in any proceeding, other than in a proceeding to enforce this CO/AOC or any judgment related to it, or for the purpose of demonstrating the consistency of the actions taken under this CO/AOC with the NCP, CERCLA, the EPHA the HWMA, or Idaho's Water Quality Act.

VII. ORDER

7.1 Based upon the foregoing provisions of this CO/AOC, and the Administrative Record for the Site, it is hereby ordered and agreed that Nu-West shall comply with the provisions of this CO/AOC, including but not limited to all Appendices to this CO/AOC and documents incorporated by reference into this CO/AOC, and perform the actions required in this CO/AOC.

VIII. ON-SCENE COORDINATOR/PROJECT COORDINATOR

8.1 IDEQ has been designated the Lead Agency for the Site pursuant to the MOU. IDEQ, as the Lead Agency for the Site, will coordinate with USFS, USFWS, BIA, the Tribes and EPA as Support Agencies pursuant to the MOU except to the extent a governmental party has declined Support Agency status as to a particular Site. IDEQ will appoint an On-Scene Coordinator ("OSC"). The initial OSC for the Site is:

Richard Clegg
Department of Environmental Quality
15 West Center
Soda Springs, Idaho 83276
Phone: (208) 547-1940
FAX: (208) 547-3989
E-Mail: rclegg@deq.state.id.us

Nu-West has designated as the Project Coordinator for the Site:

Scott B. Sprague, P.E.
Agrium U.S. Inc.
3010 Conda Road
Soda Springs, ID 83276
Phone: 208-547-4381 Ext 265
Fax: 208-547-2423
Cell: 303-883-1184
E-mail: ssprague@agrium.com

8.2 The OSC and the Project Coordinator shall be responsible for overseeing implementation of the Work and/or activities required at the Site under this CO/AOC. All written communications between the Parties concerning implementation of this CO/AOC shall be directed to the OSC or Project Coordinator, by regular or overnight mail or by facsimile, with copies to such other persons as the Parties reasonably designate. IDEQ and/or Nu-West may change their respective OSC/Project Coordinator and shall notify each other in writing at least five (5) days prior to any such change.

8.3 As specifically described elsewhere in this CO/AOC, deliverables and other written communications transmitted by one of the Parties under this CO/AOC shall be sent to the following persons:

For the IDEQ: the OSC designated in paragraph 8.1.

For the United States Forest Service:

Jeff Jones
U.S. Forest Service
421 West 2nd South
Soda Springs, Idaho 83276
Phone: (208) 547-4356
Fax: (208) 547-1112
E-mail: jjones13@fs.fed.us

For FWS:

Susan Burch, Contaminants Specialist
USFWS - Idaho Snake River Basin Office
1387 S. Vinnell Way
Room 368

Boise, Idaho 83709
Phone: (208) 378-5243
Fax: (208) 378-5262
E-mail: susan_burch@fws.gov

For EPA:

Dave Tomten
1435 N. Orchard St.
Boise, Idaho 83706
Phone: (208) 378-5763
Fax: (208) 378-5744
E-mail: tomten.dave@epa.gov

For the BIA:

Dean Fox
BIA-Fort Hall Agency
Admin. Bldg. 606 Bannock Ave., Rm. 210
Fort Hall, Idaho 83203
Phone: (208) 238-2312
Fax: (208) 238-1310
E-mail: deanfox@bia.gov

For the Tribes:

Christina Cutler
Shoshone-Bannock Tribes
PO Box 306
Fort Hall, Idaho 83203
Phone: (208) 238-5372
Fax: (208) 237-0797
e-mail: ccutler@shoshonebannocktribes.com

For Nu-West: the Project Coordinator designated in paragraph 8.1.

8.4 The OSC shall have the authority vested in the OSC by the EPHA, the HWMA, and other applicable law. Absence of the OSC from the Site shall not be cause for stoppage of Work unless specifically directed by the OSC.

IX. WORK TO BE PERFORMED

9.1 Nu-West agrees to perform a Site Investigation ("SI") and an Engineering Evaluation and Cost Analysis ("EE/CA") at the Site, consistent with the attached Site Specific SOW. The Parties agree to use their best efforts to coordinate activities under this CO/AOC with existing and future mining

operations to minimize interference between CO/AOC activities and mining activities recognizing that portions of the Site remain active operating facilities subject to regulatory programs. Investigation and related activities have already been performed that may be relevant to Nu-West in completing the Work under the SOW, including but not limited to those activities performed in connection with the AWAOC and other activities performed by Nu-West and various other public and private entities. IDEQ may, in its discretion, accept work previously performed by Nu-West in satisfaction of one or more SOW requirements. The SOW shall describe the remaining Work required to complete the SI.

9.1.1 The general objective of the SI is to determine the scope of any release or threatened release of hazardous substances to the environment at or from each individual Mine Site. Each SI shall consist of sampling and monitoring, including the preparation of reports, as set forth in the SOW.

9.1.2 The general objective of the EE/CA for each Site is to identify and evaluate removal action requirements and alternatives designed to prevent, mitigate, or otherwise respond to or remedy any release or threatened release of hazardous substances from the individual Site in accordance with the NCP, 40 C.F.R. § 300.415, and applicable state law. Nu-West shall perform the EE/CA in accordance with the SOW for each Site (Appendix 1). The EE/CA shall include, but is not limited to, the following:

9.1.2.1 An identification of removal action objectives, as more specifically set forth in the SOW and the relevant and appropriate portions of EPA's Guidance on Conducting Non-Time-Critical Removal Actions Under CERCLA, Office of Solid Waste and Emergency Response ("OSWER") Directive No. 9360.0-32, August 1993;

9.1.2.2 An identification and comparative analysis of removal action alternatives, including an analysis of their effectiveness, cost, and ability to be implemented, as more specifically set forth in the SOW and the relevant and appropriate portions of OSWER Directive No. 9360.0-32; and

9.1.2.3 A recommended action alternative identified by IDEQ.

9.2 All Work to be performed under this CO/AOC shall be under the direction and supervision

Deliverables shall include the Draft and Final SI/EE/CA Work Plan, the Draft and Final Sampling and Analysis Plan ("SAP"), the Draft SI Report, the Final SI Report, the Draft EE/CA Report, and the Final EE/CA Report for the Site. These Deliverables are described more fully below:

9.6.1 SI/EE/CA Work Plan. Nu-West shall submit and implement a complete SI/EE/CA Work Plan that satisfies the SOW.

9.6.2 Sampling and Analysis Plans ("SAP"s). Nu-West shall submit and implement a SAP for the Site that includes a site health and safety plan ("HASP"), quality assurance project plan ("QAPP") and field sampling plan ("FSP") covering all Work under this CO/AOC. These plans shall be consistent with the NCP, any applicable state regulations, and any applicable EPA guidance including EPA's current Standard Operating Safety Guides (EPA Publication 9285:1-03, PB92-963414, June 1992). In addition, the HASP shall comply with all applicable occupational safety and health regulations. Also, the FSP and QAPP for each Site will include procedures for collecting, transporting and analyzing all samples collected at the Site, as well as procedures for quality assurance/quality control ("QA/QC"). These procedures shall be consistent with 40 C.F.R. § 300.415(b)(4)(ii) and EPA Requirements for Quality Assurance Project Plans, EPA QA/G 5. The SAP shall identify laboratories to be used during performance of the Work of this CO/AOC.

9.6.3 SI Report. Nu-West shall submit an SI Report for the Site that describes the implementation and results of the sampling and analysis required in the SI Work Plan, including modifications approved by IDEQ, if any, made during the implementation. The final report shall include: documentation of the conditions encountered during well installation; development logs; a description of the sampling procedures completed; a presentation of the analytical results of all sampling and analyses performed; and appendices containing all relevant documentation generated during the monitoring, including, without limitation, manifests, chain of custody, sampling data sheets, laboratory results, permits, and pertinent portions of the work performed pursuant to the AWAOC, which may be incorporated by reference into the SI Report.

9.6.4 EE/CA Report. Nu-West shall submit a report for the Site documenting

of qualified personnel of Nu-West or its consultants with experience in CERCLA investigations and response actions. Nu-West shall notify IDEQ of its qualifications or the name and qualifications of any contractors or subcontractors retained to perform the Work under this CO/AOC at least fifteen (15) days prior to commencement of the portion of the Work proposed to be performed by such contractor or subcontractor and IDEQ retains the right to disapprove of any, or all, such contractors and/or subcontractors retained by Nu-West, or of Nu-West's choice of itself to do the Work. If IDEQ disapproves a selected contractor or Nu-West's choice of itself, Nu-West shall retain a different contractor or notify IDEQ that Nu-West will perform the Work in place of the disapproved contractor, within thirty (30) days following IDEQ's disapproval. Nu-West shall notify IDEQ of that contractor's name and the qualifications of the contractor or Nu-West within that same time.

9.3 All samples analyzed shall be analyzed by a laboratory that participates in a Quality Assurance/Quality Control program equivalent to that specified in the guidance documents listed in the SOW.

9.4 All Work under this CO/AOC shall be conducted in accordance with CERCLA, the NCP, EPHA, HWMA, Idaho's Water Quality Act, and applicable guidance documents. The OSC will provide Nu-West with copies of the relevant guidance documents upon request. All Work performed by and for Nu-West in compliance with the requirements of this CO/AOC, its Appendices, or the Deliverables specified in paragraph 9.6, infra, and approved by IDEQ, shall be deemed to be necessary and consistent with the EPHA, HWMA and Idaho's Water Quality Act, and to the extent concurred in by the appropriate Support Agency, shall also be deemed consistent with the NCP.

9.5 During performance of the Work required under this CO/AOC, Nu-West shall provide IDEQ with data and Deliverables as described below and/or in the SOW. A schedule for submittal of the Deliverables is contained in the attached SOW. Upon the written request of the OSC, Nu-West shall provide IDEQ with non-validated analytical data within thirty (30) days of receiving such data.

9.6 The documents required under this CO/AOC to be prepared, submitted for approval, and implemented by Nu-West shall be known as "Deliverables." For the purposes of this CO/AOC,

implementation of the EE/CA Work Plan, including modifications approved by IDEQ, as provided herein, if any, during the implementation. The final report shall contain a detailed analysis of removal alternatives, a recommendation for the selection by IDEQ of a removal alternative, and a detailed justification for the recommendation, as described in paragraph 9.1.2 of this section, the SOW and the EE/CA Work Plan.

9.7 All Deliverables shall be submitted initially by Nu-West in draft form, in accordance with the schedule provided in the SOW, or as otherwise established by the OSC, and are subject to review, comment, and written approval or disapproval by IDEQ. IDEQ agrees to consolidate any comments received from Support Agencies and to provide a single set of comments to Nu-West. Within thirty (30) days of Nu-West's receipt of the comment from IDEQ on each draft document, Nu-West shall amend and submit a revised document to IDEQ that incorporates all comments and corrects all deficiencies identified by IDEQ, unless such comments have been revised or withdrawn in writing. Except as provided in the final sentence of this paragraph, deliverables approved by IDEQ shall be incorporated herein, shall be enforceable as a part of this CO/AOC, and may be modified only upon the written approval of IDEQ. IDEQ may also approve a Deliverable with modifications; once approved, and except as provided in the final sentence of this Paragraph, the Deliverable shall be incorporated herein, shall be enforceable as part of this CO/AOC, and may be modified only upon written approval of IDEQ. In the event Nu-West disagrees with any IDEQ decision made under this Paragraph, such disagreement shall be resolved under the dispute resolution provisions of this CO/AOC. Upon completion of the dispute resolution process under this CO/AOC, the Deliverable as modified and approved through the dispute resolution process shall be incorporated herein and shall be enforceable as part of this CO/AOC.

9.8 The Deliverables shall be submitted to IDEQ in accordance with the schedule set forth in the SOW.

9.9 The absence of written comments by IDEQ in response to the submission of any Deliverable by Nu-West pursuant to the schedules set out under this SOW shall not be construed as IDEQ's approval of the Deliverable under this CO/AOC.

9.10 Nu-West shall not implement the actions described in a Deliverable in connection with

any Work at the Site until it receives written approval of the Deliverable from IDEQ. Each Deliverable approved in writing by IDEQ shall be incorporated by reference into this CO/AOC. All Work performed pursuant to this CO/AOC shall be in accordance with approved Deliverables, unless otherwise authorized in writing by the OSC. Failure to materially comply with any provision of an approved Deliverable shall be considered a violation of this CO/AOC.

9.11 Unless the OSC authorizes a smaller number in writing, Nu-West shall provide to IDEQ an electronic copy and three (3) paper copies of each draft and final Deliverable, including one unbound copy and shall provide one copy to each Support Agency. Such copies shall be sent to the contacts listed in paragraph 8.3 of this CO/AOC. All reports, maps and supporting information shall be provided in readily reproducible form.

9.12 IDEQ will prepare a Community Relations Plan for the Site in accordance with applicable EPA guidance and the NCP. Nu-West shall provide information and otherwise cooperate in support of the preparation and implementation of the Community Relations Plan.

9.13 Upon request by IDEQ or a Support Agency, through the OSC, Nu-West shall provide copies of plans, task memoranda, field modifications, recommendations for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other documents generated in connection with the Work performed under this CO/AOC; provided, however, that Nu-West need not disclose such materials if protected from disclosure by a claim of attorney-client privilege or attorney work product, to the extent such protections are not limited by paragraphs 18.3 and 18.4 of this CO/AOC. To the extent Nu-West contends information proposed for disclosure pursuant to this paragraph is subject to a claim of business confidentiality or trade secret, Nu-West shall make such claim upon the face of the document. Disclosure of such information to IDEQ shall be governed by the provisions of paragraphs 18.3-4 and the Idaho Public Records Act, Idaho Code § 9-342.

X. ADMINISTRATIVE RECORD

10.1 IDEQ shall determine the initial contents and location of the administrative record for the

Site and shall provide reasonable notice to Nu-West of these contents and this location. Nu-West may submit to IDEQ for consideration for inclusion in the record any records, reports, data, documents, photographs, or other information or materials prepared, discovered, relied on, or otherwise generated or used in connection with Nu-West's performance of Work under this CO/AOC. However, nothing in this paragraph shall be deemed to limit or affect the lawful discretion of IDEQ to determine the contents of the administrative record; provided, however, that if IDEQ refuses to include materials submitted by Nu-West in the administrative record, such refusal shall be subject to the dispute resolution provisions of this CO/AOC.

10.2 IDEQ retains the responsibility for releasing to the public the one or more EE/CA Reports and any decision documents for the Site. IDEQ will, after providing opportunity for public comment on any EE/CA Report, consistent with 40 C.F.R. §§ 300.415 and 300.820, select a removal alternative that is appropriate for each Site. The selection of a removal action is governed by State authority and to the extent concurred in by the appropriate federal Support Agency is also governed by Section 113(h) and (j) of CERCLA and shall not be subject to the dispute resolution procedures of this CO/AOC. Nothing in this CO/AOC shall be deemed to obligate Nu-West to perform or take any action pertaining to the selected removal action.

10.3 Unless instructed otherwise by the OSC, in writing, Nu-West shall submit to IDEQ upon submission of an EE/CA Report for each Site, any documents developed during the course of the EE/CA; provided, however, that Nu-West need not disclose such materials if protected from disclosure by a claim of attorney-client privilege or attorney work product, to the extent such protections are not limited under paragraphs 18.3 or 18.4. To the extent Nu-West contends information proposed for disclosure pursuant to this paragraph is subject to a claim of business confidentiality or trade secret, Nu-West shall make such claim upon the face of the document. Disclosure of such information shall be governed by the provisions of paragraphs 18.3-4 and, with respect to disclosure of information to IDEQ, the Idaho Public Records Act, Idaho Code § 9-342. Documents developed during the performance of the EE/CA include, but are not limited to, copies of plans, task memoranda, documentation of field modifications, recommendations

for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports required pursuant to this CO/AOC. Nu-West also shall submit any correspondence between Nu-West and state, local, or other federal authorities concerning the performance of the EE/CA or the selection of the removal action for each Site.

XI. OTHER APPLICABLE LAWS

11.1 All actions required to be taken pursuant to this CO/AOC shall be performed in accordance with the requirements of all applicable local, state, and federal laws and regulations, except that, pursuant to Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), and 40 C.F.R. § 300.400(e), no Federal, State, or local permit shall be required for the portion of the Work conducted entirely on-site, where such Work is carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621(e), and the NCP. Where any portion of the Work performed off-site requires a federal or state permit or approval, Nu-West shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

11.2 Compliance by Nu-West with the terms of this CO/AOC shall not relieve Nu-West of its obligation to comply with CERCLA, RCRA, EPHA, HWMA, or any other applicable local, state, or federal laws and regulations.

XII. RECORD PRESERVATION

12.1 The original or one copy of all records and documents in the possession, custody or control of Nu-West, excluding internal drafts of Deliverables, that are generated or collected pursuant to this CO/AOC shall be preserved during performance of the Work and for a minimum of ten (10) years after completion of the Work required under this CO/AOC, unless IDEQ with the concurrence of the Support Agencies notifies Nu-West in writing that these documents may be destroyed earlier. After the expiration of this ten-year period, Nu-West shall notify IDEQ and all Support Agencies at least sixty (60) days before the documents are scheduled to be destroyed and shall provide IDEQ with the opportunity to take possession of or copy non-privileged material. Such notice is only required for five years following

expiration of the ten-year post-completion period, unless extended by request of IDEQ, in writing.

XIII. CLAIMS AGAINST THIRD PARTIES

13.1 The Parties to this CO/AOC reserve any claims they now have, or may have in the future, against any third party including, but not limited to, claims under Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, for recovery of response costs, including oversight or enforcement costs arising out of, or related to, this CO/AOC, and any future and/or past costs incurred in connection with the Site or this CO/AOC. Nothing in this CO/AOC shall constitute or be construed as a release from any claim, cause of action or demand against any person, firm, partnership, or corporation not a signatory to this CO/AOC for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances found at, taken to, or taken from the Site, or from the ownership or operation of the Site or any portion thereof.

XIV. MODIFICATION OF CO/AOC PLANS OR SCHEDULES

14.1 The terms of this CO/AOC may be modified only by the written agreement of the Parties; provided, modifications to any plan or schedule may be made, in writing, by the OSC or at the OSC's direction, as provided in paragraph 32.1.

XV. THREATENED/ENDANGERED SPECIES

15.1 Nu-West shall immediately notify the OSC of any and all threatened or endangered species encountered on the Site in the course of performing activities under this CO/AOC.

XVI. COUNTERPARTS AND EFFECTIVE DATE

16.1 This CO/AOC may be executed in counterparts, each of which shall be deemed to be an original, but such counterparts shall together constitute a single, integrated document. This CO/AOC shall be effective on the date it has been signed by all Parties and approved by the United States Attorney General or his or her designee.

XVII. ACCESS

17.1 Beginning on the effective date of this CO/AOC, the USFS shall permit access to the portions of the Site located on Federally owned land to Nu-West and its authorized representatives, as necessary to perform the Work required under this CO/AOC. Nu-West shall provide access for IDEQ and Support Agency personnel accompanied or authorized by the OSC to the Site and to off-Site areas under the ownership and/or control of Nu-West as may be needed to implement this CO/AOC, and shall provide access to all records and documentation related to the conditions at the Site and the actions conducted pursuant to this CO/AOC; provided, however, that Nu-West need not disclose such materials if protected from disclosure by a claim of attorney-client privilege or attorney work product, to the extent such protections are not limited under paragraphs 18.3 or 18.4. To the extent Nu-West contends information disclosed pursuant to this paragraph is subject to a claim of business confidentiality or trade secret, Nu-West shall make such claim upon the face of the document. Disclosure of such information to IDEQ shall be governed by the provisions of paragraphs 18.3-4 and the Idaho Public Records Act, Idaho Code § 9-342.

17.2 Nu-West shall use its best efforts to obtain such access as may be needed, if any, to private lands not under its ownership and/or control that are necessary to perform the Work required under this CO/AOC. Nu-West will use its best efforts to have any access agreement that it obtains include such access by IDEQ as may be necessary for IDEQ and their authorized representatives, and for Support Agency personnel accompanied or authorized by the OSC, to implement the terms of this CO/AOC, and shall specify that Nu-West is not the representative of IDEQ for purposes of liability associated with Site activities. Nu-West shall provide IDEQ with copies of all relevant access agreements prior to initiation of field activities on the area covered by the access agreement. To the extent that Nu-West is unable to obtain consensual access to any private lands, IDEQ may exercise its authorities to obtain access. All persons, including but not limited to IDEQ and the Support Agencies, with access to a Site under this paragraph shall be required to comply with the approved health and safety plans of that Site as well as any other health and safety requirements of the Mine Safety and Health Act, 30 U.S.C.A.

Ch. 22, applicable to the Site. For purposes of this paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of an access agreement, access easement, land/water use restriction, restrictive easement, and/or an agreement to release or subordinate a prior lien or encumbrance, but shall not include the purchase of real property to the extent the reasonable price for such property exceeds the fair market value for such real property as determined by an independent appraisal.

XVIII. SAMPLING AND DATA AVAILABILITY

18.1 Nu-West shall notify IDEQ at least five (5) working days prior to conducting field events, including construction, excavation, drilling and sampling events. The five-day notice period may be shortened if IDEQ and Nu-West agree that this notice period would impede or prevent necessary or desirable sampling. Any Party, including its contractors, that is taking samples, will, at the request of another Party, allow split or duplicate samples to be taken by or for the other Party of any samples collected in the course of implementing this CO/AOC.

18.2 Except for objections made in state court based upon Idaho Rules of Evidence 401, 403 and 702 and 703, each Party waives any objection to the validity and admissibility of data generated in the course of performance of Work under this CO/AOC, if such data has been collected or generated in compliance with this CO/AOC, and validated in accordance with the QA/QC procedures set forth in the SAP. The Parties do not waive their rights to object to the relevance or the interpretation of, or the conclusions to be drawn from, such validated data.

18.3 Nu-West agrees not to assert any business confidentiality claim, or attorney-client or attorney work product privilege, with respect to any analytical data relating to sampling, monitoring, or other activities required to be performed under this CO/AOC, or with respect to observations of conditions at or resulting from releases at the Site made or generated in the course of the performance of the Work pursuant to this CO/AOC. Nu-West may assert a claim of business confidentiality or other privilege covering any other type of information generated pursuant to the requirements of this CO/AOC, provided,

in the case of a business confidentiality claim only, that such claim is consistent with the language of Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and is asserted in the manner described in 40 C.F.R. § 2.203. If no claim of confidentiality or other privilege accompanies the information when it is received by IDEQ, it may be made available to the public without further notice.

18.4 In the event Nu-West decides to withhold any document or information otherwise required to be disclosed by the provisions of this CO/AOC on the basis of a claim of privilege, it shall inform IDEQ of that decision and provide IDEQ with the date, author, recipient(s), title, and description of the document or information withheld. Nu-West shall also identify which privilege(s) it asserts applies to the document or information withheld and explain the basis for its assertion. Based on the information supplied by Nu-West, IDEQ shall determine whether to accept Nu-West's claim of privilege. In the event IDEQ disagrees with Nu-West's claim of privilege, Nu-West shall promptly disclose the document or information previously withheld, unless Nu-West disputes IDEQ's determination by invoking the Dispute Resolution provisions of Section XXII of this CO/AOC.

18.5 IDEQ and its authorized representatives, and Support Agency personnel accompanied or authorized by the OSC, shall have the authority at all reasonable times to inspect activities at the Site and conduct such tests on the Site as deemed necessary and may use cameras, sound recording devices, or any other equipment needed to verify data submitted or monitor activities undertaken by Nu-West. Nu-West may request split or duplicate samples under paragraph 18.1 of this CO/AOC and, upon request, shall also be entitled to inspect and make copies of any test results, recordings, photographs, or other non-privileged information or materials generated during or as a result of the inspection conducted by IDEQ. Subject to the provisions in paragraph 18.4 of this CO/AOC, IDEQ and its authorized representatives, and the Support Agencies and their authorized representatives accompanied or authorized by the OSC shall be allowed to inspect and make copies of all records, operating logs, contracts, files, photographs, sampling and monitoring data, or any other non-privileged documents related to the Work required under this CO/AOC. Any claim that such materials may be privileged shall be governed by paragraph 18.4 of this CO/AOC. Nothing herein is intended to limit or to expand in any

way the right of entry or inspection authority of IDEQ or the Support Agency under CERCLA or any other applicable legal authority.

XIX. WORK STOPPAGE

19.1 IDEQ reserves the right to stop Work from proceeding, either temporarily or permanently, on any task, activity or Deliverable at any point during performance of the Work required under this CO/AOC if Nu-West materially fails to comply with the terms of this CO/AOC; provided, however, that IDEQ must provide Nu-West with written notice to stop Work and its reasons for doing so, unless IDEQ determines that an imminent and substantial endangerment to human health, welfare or the environment exists at the Site, such that written notice is impracticable.

XX. EMERGENCY RESPONSE AND NOTIFICATION

20.1 If any incident or change in Site conditions during the Work conducted by Nu-West pursuant to this CO/AOC on the Site, causes or threatens to cause an endangerment to the public health, welfare, or the environment, Nu-West shall immediately notify the OSC of the incident or Site conditions. If the OSC is unavailable, Nu-West shall notify the EPA Region 10, Emergency Response and Site Cleanup Unit, 24 Hour Duty Officer, (206) 553-1263. If, in the course of Nu-West's performance of the Work under this CO/AOC on the Site, IDEQ determines there is an imminent and substantial endangerment to human health, welfare or the environment due to unanticipated or changed circumstances at the Site, IDEQ shall notify Nu-West in writing of modifications to the Work Plan and Specifications, and/or the Deliverables that IDEQ deems necessary to address the immediate threat. Within five (5) working days of the receipt of such notification, Nu-West shall notify IDEQ in writing whether it agrees to perform the work required under the proposed modifications. If the Parties agree in writing to the proposed modification to the Work Plan and/or the new Deliverables, the modifications to the Work Plan and Specifications and/or the new Deliverables shall become an attachment to this CO/AOC and incorporated herein.

20.2 If Nu-West does not agree to perform the Work required by the proposed modifications,

IDEQ may perform the proposed Work or take any action it deems necessary under section 107(a) of CERCLA, 42 U.S.C. § 9607(a) and applicable state law and may seek recovery of any costs it incurs performing such proposed Work pursuant to applicable law. The Parties agree that any determination by IDEQ that an immediate response at the Site is required shall not be subject to the dispute resolution provisions in Section XXII of this CO/AOC.

20.3 Nothing in this CO/AOC shall be deemed to grant, limit or affect any authority of any agency of the United States or the State of Idaho, under any statute or agreement other than this CO/AOC and the MOU, to take, direct, or order any or all appropriate action to protect human health, welfare or the environment.

XXI. ADDITIONAL INVESTIGATION AND ANALYSIS

21.1 If IDEQ determines that additional Work on the Site is required to meet the objectives of this CO/AOC and that work is not covered by Section XX above, it may notify Nu-West in writing of its determination and specify any proposed changes to any Deliverable to reflect the additional Work. Within ten (10) working days of receipt of the written determination of IDEQ that additional Work is required, Nu-West shall provide written notification to IDEQ, stating whether or not it agrees to perform the additional Work. Nu-West may implement certain additional Work or modifications to the Work based on a verbal agreement between the OSC and the Project Coordinator; however, in such cases, written confirmation of that agreement shall be transmitted between the OSC and Project Coordinator within ten (10) days of such agreement. If Nu-West agrees to perform the additional Work, within fifteen (15) days of its notice of agreement to IDEQ it shall submit to IDEQ a revised Work Plan or other appropriate Deliverable describing and providing a schedule for performance of the additional Work. If IDEQ and Nu-West agree in writing to the revisions to the Work Plan and/or the new Deliverable, the revised Work Plan and/or the new Deliverable shall become an attachment to this CO/AOC and incorporated herein. Nu-West shall perform all agreed upon additional tasks, including providing any additional analytical results and reports as required by the revised Work Plan and/or the new Deliverable. If Nu-West elects not to perform the

additional Work, IDEQ may perform the work or take any action it deems necessary under applicable law, and may seek recovery of any costs it incurs performing such work pursuant to applicable law. Any determination by IDEQ that additional Work is required at the Site shall be subject to the dispute resolution provisions in Section XXII of this CO/AOC.

21.2 If after collection of the initial data provided in the SI Work Plans, the OSC determines that additional data is needed, consistent with the SOW, the OSC may request that Nu-West proceed with the draft and final SI Reports, with the condition that Nu-West will supplement the SI Reports with the additional data collected under a modified SI Work Plan. In addition, if prior to the completion of the SI Work Plans, IDEQ determines that sufficient data has been collected with respect to a particular position or issue then IDEQ may accelerate the SI report and EE/CA process with respect to that particular portion or issue. The OSC's election to undertake this approach may result in two or more EE/CAs, the combination of which will address all pathways for the release or threatened release of hazardous substances at the Site. Nu-West will complete the initial EE/CAs on the schedule provided in the SOW. Nu-West will complete the subsequent EE/CAs on a schedule provided in a revised EE/CA Work Plan. Any determination by IDEQ that Nu-West must perform additional Work or other tasks requested by IDEQ under this paragraph, shall be subject to the dispute resolution provisions in Section XXII of this CO/AOC.

XXII. DISPUTE RESOLUTION

22.1 The dispute resolution procedures in this Section are the exclusive mechanism for resolving disputes arising under this CO/AOC. A dispute shall be considered to have arisen when Nu-West serves IDEQ or Support Agency with a written Notice of Dispute. A Notice of Dispute shall be served by facsimile, overnight mail, or some equivalent service.

22.2 In the first instance, the Parties shall attempt to resolve any dispute arising under this CO/AOC by informal negotiations. The period for informal negotiations shall not exceed thirty (30) days from the date of receipt of the Notice of Dispute, unless IDEQ or the Support Agency and Nu-West agree in writing to modify the period for informal negotiations. If the Parties fail to resolve the dispute informally,

the formal dispute resolution procedure in the following Paragraphs shall apply.

22.3 In the event the Parties cannot resolve the dispute through informal negotiations, then the position of IDEQ or the Support Agency shall be binding unless, within seven (7) days after the conclusion of the informal negotiations period, Nu-West invokes the formal dispute resolution procedures of this Section by serving on IDEQ or the appropriate Support Agency a written Statement of Position on the matter in dispute. Nu-West's written Statement of Position shall be sent by facsimile, overnight mail, or some equivalent service, and shall define the dispute and state the basis of Nu-West's objections to the position of IDEQ or the Support Agency.

22.4 Following receipt of Nu-West's Statement of Position, IDEQ or the appropriate Support Agency shall promptly provide the appropriate supervisory office with a copy of Nu-West's Statement of Position and a written response to that Statement. IDEQ or the Support Agency shall simultaneously send its response to Nu-West by facsimile, overnight mail or some equivalent service. The appropriate supervisory office is the Director of the Department of Environmental Quality for IDEQ. The appropriate supervisory office is the Director of the Environmental Cleanup Office for EPA.

22.5 Following receipt of Nu-West's Statement of Position and IDEQ's or the Support Agency's response, the appropriate supervisory office shall make a final determination resolving the matter in dispute.

22.7 Any decision made by IDEQ or the Support Agency pursuant to this section shall not constitute a final agency action subject to judicial review unless and until IDEQ or the Support Agency commences a judicial action to enforce this CO/AOC, in which case any challenge to the Director's final determination shall be subject to the Idaho Administrative Procedures Act, Idaho Code § 67-5273.

22.8 Nothing in this CO/AOC precludes the Parties from agreeing to use other forms of alternative dispute resolution in lieu of the procedures described in paragraphs 22.3 – 25.5.

22.9 Upon completion of all dispute resolution procedures under this section, Nu-West shall proceed in accordance with the final determination regarding the matter in dispute. If Nu-West does not perform any required Work in accordance with the final determination, IDEQ may perform the Work

and/or pursue any other appropriate relief, including judicial enforcement of this CO/AOC pursuant to Idaho Code § 39-108, Section 122(d)(3) of CERCLA, 42 U.S.C. § 9622(d)(3), and cost recovery pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a) or other applicable law.

22.10 The invocation of the dispute resolution provisions of this CO/AOC shall not extend, postpone or affect in any way any unrelated obligation of Nu-West under this CO/AOC not directly in dispute, unless the Parties agree in writing otherwise. Stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of the CO/AOC; provided, however, that stipulated penalties shall not accrue with respect to a matter subject to Dispute Resolution (Section XXII), during the period, if any, beginning on the day Nu-West serves IDEQ with a written Notice of Dispute until the date that IDEQ issues a final decision regarding such dispute. In the event Nu-West does not prevail on the disputed matter, stipulated penalties shall be assessed and paid as provided in Section XXVI, unless otherwise agreed by the parties in writing.

XXIII. FORCE MAJEURE

23.1 Delays or inability to perform any of the requirements of the CO/AOC within the time limits prescribed shall not be a violation of the CO/AOC where performance is prevented or delayed by a force majeure event. Force majeure is defined as any event arising from causes beyond the control of Nu-West, of any entity controlled by Nu-West, or of Nu-West's contractors, that delays or prevents performance of any obligation under this CO/AOC, despite Nu-West's best efforts to fulfill the obligation. Force majeure does not include the financial inability of Nu-West to complete performance of the obligation or increased cost of performance. Nu-West shall have the burden of proving force majeure by a preponderance of the evidence.

23.2 If any event occurs that may materially delay performance of any obligation under this CO/AOC or submittal of any Deliverable past the applicable deadline, Nu-West shall notify the OSC within twenty-four (24) hours of the time Nu-West knew that the event would delay such performance or submittal. Within five (5) business days thereafter, Nu-West shall notify IDEQ in writing of the reasons for

the delay, its anticipated length, measures taken or to be taken to minimize the delay, and an estimated timetable for implementation of these measures. Failure to comply with these requirements shall waive any claim of force majeure by Nu-West.

23.3 The OSC shall notify Nu-West in writing of the determination by IDEQ as to whether force majeure applies to the event or circumstances within seven (7) days after receipt of written notice from Nu-West. If IDEQ determines that the delay has been or will be caused by circumstances constituting a force majeure, the due date for each uncompleted task in this CO/AOC shall be extended for a sufficient period to complete the tasks that were delayed or prevented. Such period shall be at least equal to the delay resulting from the force majeure circumstance. If IDEQ disagrees with Nu-West's force majeure claim, or if there is no agreement on the length of an extension of time, the dispute shall be resolved in accordance with the dispute resolution provisions in Section XXII of this CO/AOC or the stipulated penalties provisions of Section XXVI, as appropriate.

XXIV. REIMBURSEMENT OF STATE COSTS

24.1 Costs incurred by IDEQ with respect to the Site under this CO/AOC will be reimbursed in the following manner:

24.1.1 As an initial deposit, Nu-West will pay the sum of Ten Thousand Dollars to be deposited to an account established for this site

24.1.2 Thereafter, IDEQ shall provide a quarterly accounting and invoice to Nu-West of Costs incurred by IDEQ in relation to this CO/AOC. "Costs" subject to reimbursement under this paragraph shall mean all direct or indirect costs incurred by IDEQ after January 28, 2002 in connection with IDEQ's support of Work performed by or on behalf of IDEQ under this CO/AOC, as set forth and described in the SOW or for work performed prior to this CO/AOC but used in support thereof, including but not limited to: reasonable time and travel costs associated with oversight of the Work performed under the SOW; IDEQ's contractor costs; compliance monitoring, including the collection and analysis of split samples; Site visits; review and approval or disapproval of reports; reasonable overhead charges

and any other costs directly or indirectly incurred in overseeing this CO/AOC.

24.1.3 Within thirty (30) days of Nu-West's receipt of IDEQ's quarterly accounting invoice, Nu-West shall reimburse the State for all costs reflected in the accounting invoice.

24.1.4 The initial deposit will be returned to Nu-West within sixty (60) days of the date IDEQ incurs final response costs.

24.2 All payments necessary to IDEQ shall be made to:

Administrative Services-Accounts Receivable
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, ID 83706-1255

24.3 Nu-West may dispute payment of any portion of IDEQ's submitted costs, but only on the basis of accounting errors, the inclusion of costs outside the scope of this CO/AOC, the inclusion of costs inconsistent with State regulations or the inclusion of costs that have not been paid or approved for payment by IDEQ. Disputes regarding oversight costs will be resolved using the dispute resolution procedures described in Section XXII. Any objection by Nu-West shall be made in writing within forty-five (45) days of receipt of the Quarterly Billing and shall specifically identify the disputed costs and the basis of the dispute. All undisputed costs shall be remitted by Nu-West in accordance with the provisions in the preceding paragraphs of this section. In any Dispute Resolution proceeding, Nu-West shall bear the burden of establishing its contentions as to inappropriate costs. If IDEQ prevails in the Dispute Resolution proceeding, Nu-West shall remit the amount(s) in question, including any applicable interest, within thirty (30) days after receipt of the final determination.

XXV. REIMBURSEMENT OF EPA AND FWS COSTS

25.1. Nu-West shall reimburse EPA for all Future Response Costs associated with the Site. Future Response Costs for purposes of this Section shall mean all costs, direct and indirect, that EPA incurs after April 30, 2003, in connection with negotiating, overseeing, implementing, or enforcing the terms of this CO/AOC, including but not limited to, payroll costs, contractor costs, travel costs, laboratory

costs, the costs incurred pursuant to Section XVII (Access), Section XX (Emergency Response), and Section XXI (Additional Investigation and Analysis).

25.1.1. Nu-West shall reimburse EPA for all Past Response Costs associated with the Site. Past Response Costs for purposes of this Section shall mean all costs, direct and indirect, that EPA incurred through April 30, 2003, in connection with the Site. The parties agree that Past Response Costs incurred by EPA total \$_____ and are limited to this amount.

25.1.2. For purposes of this Section, Interest shall accrue at the rate established under Section 107(a) of CERCLA, 42 U.S.C. § 9607. The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

25.1.3. EPA shall submit to Nu-West after the effective date of this CO/AOC a billing statement for Past Response Costs and subsequently shall submit to Nu-West on a periodic basis a billing statement for Future Response Costs. All billing statements shall include a SCORPIOs report or other accounting certified by EPA.

25.1.4. Within thirty (30) days of receipt of each billing statement, Nu-West shall remit a certified or cashier's check or make payment by wire transfer for the total amount of such costs, except as provided in paragraph 25.3. Checks shall be made payable to the Hazardous Substances Superfund and shall be accompanied by a statement referencing SE Idaho SE/Nu-West Georgetown Canyon Mine Site, Site ID No. ____; EPA Docket No. CERCLA-_____, In the Georgetown Canyon Mine Site; Nu-West, Respondent. Checks shall be sent to :

Mellon Client Service Center
EPA Region 10
500 Ross Street
P.O. Box 360903M
Pittsburgh, Pennsylvania 15251-6903.

25.1.5. At the time of payment, Nu-West shall send notice that payment has been made to: Financial Management Officer (Mail Code OMP-146), USEPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

25.1.6. The total amount to be paid by Nu-West pursuant to this section shall be

deposited in the SE Idaho SE/Nu-West Georgetown Canyon Mine Site Special Account within the Hazardous Substances Superfund to be retained and used to conduct or finance response actions at or in connection with the Site.

25.1.7. In the event that payment for either Past Response Costs or Future Response Costs is not made within thirty (30) days of receipt of the billing statement, Nu-West shall pay Interest on the unpaid balance. Interest shall begin to accrue on the date of receipt of the billing statement, notwithstanding any dispute or objection to any portion of the cost, and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to EPA by virtue of Nu-West's failure to make timely payments under this Section, including but not limited to, the payment of stipulated penalties pursuant to Section XXVI.

25.2.1 Nu-West hereby agrees to commit the sum of up to fifteen thousand dollars (\$15,000) per year to pay FWS' reasonable Costs. "Costs," for the purposes of this paragraph, shall mean all direct and indirect costs incurred in connection with FWS' support of Work performed by or on behalf of IDEQ under this CO/AOC, as set forth and described in the SOW, including, but not limited to, time and travel costs associated with oversight of the work performed under the SOW; contractor costs; compliance monitoring, including the collection and analysis of split samples; site visits; discussions regarding disputes that may arise under this CO/AOC; review and approval or disapproval of reports; and any other costs directly incurred in overseeing this CO/AOC. No later than December 1 of each year, FWS shall submit to Nu-West an estimated annual Cost budget. Within 30 days of receipt of the estimated annual budget, Nu-West shall deposit with the FWS an amount equal to the estimated annual budget or \$15,000, whichever is less.

25.2.2 The FWS shall use such monies to establish an account fund dedicated solely to its activities associated with this CO/AOC, in accordance with the Appropriations Act for the Department of the Interior and Related Agencies of 2000, Pub. L. 106-113, 113 Stat. 150, and other applicable statutes, regulations and guidance. Within 180 days of the execution of this CO/AOC, and every 180

days thereafter, the FWS shall provide Nu-West an accounting of its costs, including supporting cost summaries.

25.2.3. Payments to FWS shall be made by certified or cashier's check made payable to the United States Fish and Wildlife Service and mailed to:

U.S. Fish & Wildlife Service
ATTN: Debra Freeman
911 N.E. 11th Avenue
Portland, OR 97232-4181

Each check shall reference:

Site Name: Southeast Idaho Phosphate Mining -Georgetown Canyon Mine CO/AOC

25.2.4 Within 120 days after completion of FWS support activities under this CO/AOC, FWS shall provide Nu-West with a final cost accounting. In the event that the monies remain in the Fund, the FWS shall reimburse Nu-West within 30 days of submission of the final cost accounting.

25.3. Nu-West may dispute payment of any portion of EPA and/or FWS's response costs, but only on the basis of accounting errors or the inclusion of costs inconsistent with the NCP. Disputes regarding EPA and FWS Response Costs will be resolved using the dispute resolution procedures described in Section XXII. Any objection by Nu-West shall be made in writing within forty-five (45) days of receipt of the billing statement and shall specifically identify the disputed costs and the basis of the dispute. Disputed costs shall be paid by Nu-West into an interest-bearing escrow account while the dispute is pending. All undisputed costs shall be remitted by Nu-West in accordance with the provisions in the preceding paragraphs of this Section. In any dispute resolution proceeding, Nu-West shall bear the burden of establishing an accounting error, the inclusion of costs inconsistent with the NCP, the inclusion of costs for work outside the scope of this CO/AOC or the inclusion of costs that have not been paid, or approved for payment by EPA or FWS. If EPA or FWS prevails in the dispute resolution proceeding, Nu-West shall remit the amount(s) in question, including any applicable interest, within 30 days after receipt of the final determination. If Nu-West prevails concerning any aspect of the contested costs, Nu-West shall pay that portion of the costs for which it did not prevail in the manner described in the preceding

sentence. Nu-West shall be disbursed any balance of the escrow account.

XXVI. STIPULATED PENALTIES

26.1 Unless there has been a written modification of a compliance date or other requirement of this CO/AOC by IDEQ, or a force majeure event as defined herein, in the event Nu-West fails to meet any material requirement of this CO/AOC, Nu-West shall pay stipulated penalties in the amount of \$1,000 per day, per violation for the 1st through 14th days of noncompliance; \$3,000 per day, per violation for the 15th through 30th day of noncompliance; and \$7,500 per day, per violation for the 31st day of noncompliance and every day thereafter. Compliance by Nu-West shall include complete and timely performance of each activity required under this CO/AOC including but not limited to reimbursement of response costs pursuant to Section XXIV and XXV, or complete and timely performance of all Work described in any plan, statement or Deliverable approved under this CO/AOC.

26.2 All penalties shall begin to accrue on the day after complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity; provided, however, that stipulated penalties shall not accrue: (1) with respect to a deficient submission of a Deliverable under Section IX (Work to be Performed), during the period, if any, beginning on the day of IDEQ's receipt of such submission until the date that IDEQ notifies Nu-West of any deficiency and Nu-West fails to cure the deficiency within seven (7) days of that notice; (2) with respect to a matter subject to Dispute Resolution (Section XXII), during the period, if any, beginning on the day Nu-West serves IDEQ with a written Notice of Dispute until the date that IDEQ issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this CO/AOC.

26.3 IDEQ will advise Nu-West in writing of any stipulated penalties owed by Nu-West pursuant to this section. All penalties shall be paid by certified or cashier's check within thirty (30) days of the date of receipt of the demand for payment, unless Nu-West has properly disputed such demand or related notice of violation. Interest shall begin to accrue on the unpaid balance at the end of the thirty

(30) day period. Interest shall accrue at the rate provided in applicable law. Payment shall be made in accordance with instructions provided by IDEQ.

26.4 The stipulated penalties provided for in this section of the CO/AOC shall be the exclusive monetary penalty for violations of this CO/AOC. The provisions in this section, however, do not preclude IDEQ from pursuing any other remedies or sanctions that may be available by reason of Nu-West's failure to comply with any of the requirements of this CO/AOC, nor shall payment of stipulated penalties relieve Nu-West of the responsibility to comply with any requirement of this CO/AOC. Notwithstanding any other provision of this section, IDEQ may at any time and in its unreviewable discretion, waive any portion of the stipulated penalties that have accrued pursuant to this CO/AOC.

XXVII. OTHER CLAIMS

27.1 By entering into this CO/AOC, the Parties assume no liability for injuries or damages to persons or property resulting from any acts or omissions of any other Party. No Party shall be deemed to be a Party to any contract entered into by any other Party or its contractors, to carry out actions pursuant to this CO/AOC.

XXVIII. ENFORCEMENT

28.1 Except for the provisions of section XXV of this CO/AOC related to EPA cost recovery and as provided in this paragraph 28.1 below, responsibility for enforcement of the CO/AOC shall be vested in IDEQ as Lead Agency. Determinations regarding compliance with the terms of the CO/AOC and related enforcement actions shall be made by the Lead Agency with the concurrence of Support Agencies and subject to dispute review provisions set forth in the July 17, 2000 MOU. Notwithstanding the foregoing, however, the EPA and USFS specifically reserve the right to bring an action to enforce this CO/AOC in circumstances where the Lead Agency has failed to take or is unable to take and/or pursue enforcement action. Furthermore, as provided in Section XXIX of this CO/AOC, the Support Agencies reserve the right to exercise their separate, statutory and regulatory enforcement authorities with respect to the Site.

XXIX. RESERVATION OF RIGHTS

29.1. Except as expressly provided in this CO/AOC, the State of Idaho and IDEQ and the United States reserve all rights, claims and defenses they may have, including the right to bring an action against Nu-West under Section 107 and 113 of CERCLA, 42 U.S.C. § 9607 and 9613, or Idaho Code §§39-108(3)(a)(v) and 39-4413(A)(1)(d), for recovery of any unreimbursed response costs incurred in connection with the Site. Nothing in this CO/AOC shall be construed as releasing Nu-West from liability, if any, for its actions. The State of Idaho, IDEQ and the United States reserve the right to take any enforcement action pursuant to CERCLA or any other legal authority for relief, including, but not limited to, injunctive relief, monetary penalties, and punitive damages for any violation of this CO/AOC, except as provided in Paragraphs 26.4 and 28.1.

29.2 Nothing in this CO/AOC shall be construed as releasing the United States or any of its agencies or departments from any liability for any of its actions. Nu-West also reserves any defense that may be asserted by law in response to any enforcement action taken by the United States with respect to the Site.

29.3 Nu-West reserves, and this CO is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any such claim shall not include a claim for damages caused, in whole or in part by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 USC 2671; *nor shall such claim include a claim based on EPA's selection of response actions, or the oversight or approval of Nu-West's plans or activities.* The foregoing applies only to claims which are brought pursuant to statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA.

29.4 IDEQ expressly reserves the right to seek further relief to address contamination or pollution resulting from the matters addressed herein. Nothing herein shall be deemed to bar such further relief and this agreement shall not operate pursuant to Idaho Code 39-108(3)(a)(v) to preclude the IDEQ from seeking additional relief.

29.5 Nothing in this CO/AOC shall be construed to limit the power and authority of IDEQ or appropriate Support Agencies to take, direct, or order all actions necessary to protect the public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances at or from the Site, as permitted under applicable law.

29.6 Except as expressly provided in this CO/AOC, Nu-West reserves all rights, claims and defenses it may have, including the right to bring an action against the State of Idaho and/or its agencies and departments under CERCLA for recovery of any response costs incurred in connection with the Site under Sections 113 and 120 of CERCLA. Nothing in this CO/AOC shall be construed as releasing IDEQ from any liability for any of its actions. Nu-West also reserves any defense that may be asserted by law in response to any enforcement action taken pursuant to IDEQ's reservation of rights in this section.

29.7 Nu-West reserves, and this CO/AOC is without prejudice to, claims against IDEQ, subject to the provisions of the Idaho Code, respectively, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of IDEQ while acting within the scope of his/her office or employment under circumstances where IDEQ, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any such claim shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a state employee; nor shall any such claim include a claim based on IDEQ's selection of response actions, or the oversight or approval of Nu-West's plans or activities. The foregoing applies only to claims, which are brought pursuant to a statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA.

XXX. INDEMNIFICATION

30.1 Nu-West agrees to indemnify and hold the State of Idaho and the United States and its agencies, departments, agents and employees, harmless from all claims of third parties arising from acts or omissions of Nu-West or those acting on its behalf, including its officers, employees, agents, contractors, subcontractors, or assigns, in carrying out activities under this CO/AOC.

30.2 Subject to the limitations and procedures of the Idaho Tort Claims Act, Idaho Code § 6-901-29, IDEQ agrees to indemnify Nu-West and its agents and employees from all claims of third parties arising from acts or omissions of the IDEQ or those acting on its behalf, including its officers, employees, agents, contractors, subcontractors, or assigns, in carrying out activities under this CO/AOC to the extent that such a claim could be made against IDEQ under the Idaho Tort Claims Act, Idaho Code § 6-901-29.

30.3 In performing any of the Work required by this CO/AOC, Nu-West has an affirmative duty to protect from injury and damage lands of the United States. Damage includes, but is not limited to, fire suppression costs and all costs and damages associated with restoration or rehabilitation of natural resources associated with Nu-West's implementation of this CO/AOC. Nu-West shall be liable for damage to all roads and trails of the United States caused by the use of Nu-West, or those acting on its behalf, except that damage shall not include reasonable and ordinary wear and tear.

XXXI. NOTICE OF COMPLETION

31.1 Upon completion of all requirements under this CO/AOC, Nu-West shall certify in writing to IDEQ that all requirements under this CO/AOC, including any additional Work and payment of stipulated penalties, have been completed. The certification shall be signed by a representative of Nu-West with the requisite knowledge and authority, and shall include the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete." If IDEQ agrees with Nu-West's certification it will so notify Nu-West in writing and this CO/AOC, with the exception of any continuing obligations, shall be terminated, with respect to the portion of the Site so certified. For the purposes of this section, continuing obligations shall include, but not be limited to, the following

obligations contained in this CO/AOC: Section XII (Record Preservation), Section XXVIII (Reservation of Rights) and Section XXX (Indemnification). If IDEQ determines that any requirements of this CO/AOC have not been completed by Nu-West, they will notify Nu-West in writing and specify the deficiencies. Nu-West shall correct such deficiencies in accordance with the notice of IDEQ. Failure by Nu-West to correct such deficiencies shall be a violation of this CO/AOC.

XXXII. MODIFICATION

32.1 Modification to any plan or schedule may be made, in writing, by the OSC or at the OSC's direction. If the OSC makes an oral modification, it will be memorialized in writing within 10 days; provided, however, that the modification effective date shall be the date of the OSC's oral direction. In the event Nu-West disagrees with any modification proposed under this paragraph, such disagreement shall be resolved in accordance with the dispute resolution provisions of this CO/AOC.

XXXIII. MISCELLANEOUS

33.1 During the performance of this CO/AOC, Nu-West agrees that in connection with the performance of Work under this CO/AOC, Nu-West shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age or handicap. Nu-West shall include and require compliance with the above nondiscrimination provision in any contract or subcontract made with respect to this CO/AOC. IDEQ shall have the right to enforce the foregoing nondiscrimination provisions by suit for specific performance or any other remedy under the laws of the United States or the state in which the breach or violation occurs.

33.2 If, while implementing the terms of this CO/AOC, Nu-West discovers any objects of historic or scientific interest, it shall notify the OSC and leave such discoveries intact until and unless otherwise instructed by the OSC. For the purposes of this paragraph, objects of historic or scientific interest include, but are not limited to, historic or prehistoric ruins, fossils, or artifacts. Compliance with any protective and mitigative measures specified by the OSC shall be Nu-West's responsibility.

Nu-West's Georgetown Canyon Phosphate Mine Site
Administrative Order on Consent/Consent Order

DRAFT - 8/25/03

41

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

By: _____

Name: _____

Title: _____

Date: _____

DRAFT - 8/25/03

42

Nu-West's Georgetown Canyon Phosphate Mine Site
Administrative Order on Consent/Consent Order

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE REGION 4

By: _____

Name: _____

Title: Regional Forester

Date: _____

DRAFT - 8/25/03

43

Nu-West's Georgetown Canyon Phosphate Mine Site
Administrative Order on Consent/Consent Order

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

By: _____

Name: _____

Title: _____

Date: _____

DRAFT - 8/25/03

44

Nu-West's Georgetown Canyon Phosphate Mine Site
Administrative Order on Consent/Consent Order

On behalf of the United States, and its agencies signatory hereto, I approve and concur in this
Administrative Order on Consent/Consent Order involving the Nu-West's Georgetown Canyon Phosphate
Mine Site.

Date: _____

(insert name)
Assistant Attorney General
Environment and Natural
Resources Division
U.S. Department of Justice

DRAFT - 8/25/03

45

Nu-West's Georgetown Canyon Phosphate Mine Site
Administrative Order on Consent/Consent Order

Nu-West Mining, Inc.

By: _____

Name: _____

Title: _____

Date: _____